

# BakerHostetler

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November 4, 2016

Helen Davis Chaitman  
Chaitman LLP  
465 Park Avenue  
New York, NY 10022

*Re: Profit Withdrawal Evidentiary Hearing, 08-1789 (SMB)*

Dear Ms. Chaitman,

We represent Irving Picard (the “Trustee”), as Trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and the substantively consolidated chapter 7 estate of Bernard L. Madoff.

In anticipation of the profit withdrawal evidentiary hearing, the Trustee filed a motion *in limine* on October 28, 2016 seeking to exclude the deposition testimony of Aaron Blecker, or, in the alternative, to conduct a trial deposition (the “Blecker Motion”). ECF No. 14356. We are cognizant of Mr. Blecker’s age, however, and propose that the parties reach a stipulation to resolve certain issues and alleviate any burden on Mr. Blecker to testify.

## **1. Admissibility of Mr. Blecker’s Document Production**

Mr. Blecker produced documents to the Trustee on September 19, 2014 in connection with the inter-account transfer litigation bearing Bates labels BLKR000001-BLKR002258 (“September 2014 Production”). The September 2014 Production includes 2,558 pages of documents related to Mr. Blecker’s BLMIS accounts, including hundreds of customer statements, trade confirmations, and a limited number of other documents including portfolio management reports and debit memoranda. For your convenience, we have provided you with a disc containing the September 2014 Production along with this letter.

Since Mr. Blecker produced these documents and it is his burden to support his claim under SIPA, we do not anticipate that you would challenge their authenticity or admissibility,

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and believe that reaching a stipulation on these documents would be the most efficient way to proceed. Please advise if you agree to stipulate to the authenticity and admissibility of the documents contained in the September 2014 Production at the forthcoming evidentiary hearing.

**2. Mr. Blecker's Handwritten Notes**

Several hundred documents in the September 2014 Production include handwritten notes. As Mr. Blecker previously attested that he was solely responsible for handling his family's BLMIS investments, *see* Tr. of Aaron Blecker Dep. dated July 1, 2014 at 9:18-10:4, it is presumed that the handwriting on such documents belongs to Mr. Blecker. Schedule A that accompanies this letter provides a list of Bates references for the pages in the September 2014 Production that contain handwritten notes. Please verify that the handwriting appearing on the documents shown in Schedule A belongs to Mr. Blecker.

**3. Physician's Letter**

As addressed in the Blecker Motion, the burden to show that a witness is unavailable to testify rests with the party seeking to use deposition testimony in lieu of live testimony. Please provide a letter from Mr. Blecker's physician attesting to the fact that his health or age prevents him from testifying at trial. We would of course agree to keep this information confidential.

If you are willing enter into a stipulation regarding the information requested in paragraphs (1) – (3) above, we will withdraw the Blecker Motion. We look forward to hearing from you.

Sincerely,

/s/ *Seanna R. Brown*

Seanna R. Brown  
Partner

Enclosures

cc: Amy E. Vanderwal

Schedule A

BLKR000001	BLKR000073	BLKR000141	BLKR000198	BLKR000262
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